

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	Case No. 1:13cr016
Plaintiff,	:	
	:	Chief Judge Susan J. Dlott
v.	:	
	:	Order Granting Continuance
JAMES NAPIER,	:	
	:	
Defendant.	:	

This matter is before the Court on Defendant's Motion to Extend the Deadline to File Pretrial Motions and to Continue the Trial. Doc. 33. Defendant seeks a one-month continuance of the motions deadline, currently March 15, 2013, and extension of the trial date, currently April 8, 2013. As grounds for the motion, defense counsel states that discovery in this case is extensive and involves both documentary and video evidence relating to the pornography charges against Defendant. A forensic investigator from the Public Defender's Office is analyzing two computers and other media seized by the Government, and Defendant and his counsel need additional time to complete their review of the discovery materials to determine whether motions may be appropriate. Counsel for the Government does not oppose the motion for a continuance.

Under 18 U.S.C. § 3161(h)(7)(A), pursuant to a defendant's motion for a continuance or on its own motion, a court may grant a continuance that is excludable from the speedy trial clock if the court finds that "the ends of justice served by [continuing the trial] outweigh the best interest of the public and the defendant in a speedy trial." A court is to consider a number of factors in "determining whether to grant such a continuance," including: (a) "[w]hether the failure to grant such a continuance . . . would deny counsel for the defendant . . . the reasonable

time necessary for effective preparation;” and (b) “[w]hether the failure to grant such a continuance . . . would . . . result in a miscarriage of justice.” 18 U.S.C. § 3161(h)(7)(B)(i), (iv).

Based on an evaluation of those factors, the Court finds that a continuance is warranted. Defense counsel is in the process of reviewing extensive discovery, and a forensic investigator is analyzing computers seized by the Government in this case. Defendant’s interest in his counsel taking a reasonable amount of time to review this evidence, consider possible motions, and prepare his defense outweighs the interest of Defendant and the public in a speedy trial. Defendant’s motion for continuance is therefore GRANTED.

Under 18 U.S.C. § 3161(h)(7)(A), the ends of justice are served by extending the motions deadline and all other dates in this case. The Court hereby vacates the current schedule and extends the motions deadline to April 12, 2013, sets the final pretrial conference for April 30, 2013 at 10:00 a.m. in Chambers, and sets a jury trial to begin May 13, 2013 at 9:30 a.m. in Courtroom 7. The days between the original trial date of April 8, 2013 and the new trial date of May 13, 2013 are excludable from the speedy trial calculation.

IT IS SO ORDERED.

S/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court

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